

REMARKS

This amendment is filed in response to the office action mailed on September 14, 2006. In the office action, claims 8-27 are objected to as is the specification. In response, paragraphs 28 and 32 of the specification have been amended to provide proper antecedent basis for all claim terms thereby traversing the objections to the specification.

Further, claims 8-9, 20 and 27 have been amended in accordance with the suggestions set forth in paragraph 3 on page 2 of the office action.

Finally, the patent office takes the position that the term "about" is indefinite and objects to claims 9-11, 16-17, 20-21, 24-25 and 27. However, the patent office cites no authority in either the MPEP or the case law where use of the term "about" is discouraged in these circumstances. In contrast, the term "about" has been used to describe physical ranges in US patents for decades. New patent agents and patent attorneys are trained to use the term "about."

Indeed, the following search on the USPTO website:

Results of Search in US Patent Collection db for:

(ACLM/"range from about " AND ACLM/"to about "): 70393 patents.

Hits 1 through 50 out of 70393; reveals over 70,000 patents using term about. Any reference to the chemical arts will assure the patent office that the terms "from about" and "to about" as well as the terms "at least about" and "below about" are commonly used. Nowhere in the MPEP is use of the term "about" prohibited or discouraged.

Applicants also respectfully submit that the case law supports their use of the term "about." Under 35 U.S.C. §112 the term "about" entitles the patentee to a broad interpretation of any range claimed in the patent. "About" is not broad or arbitrary but rather is a flexible term with a meaning similar to "approximately." *Syntex (USA), Inc. v. Paragon Optical, Inc.*, 7 USPQ 2d 1001, 1038 (D. Ariz. 1987). The term "about", like the term "substantially" is a descriptive term commonly used in patent claims to "avoid a strict numerical boundary to the specified parameter." *Pall Corp. v. Micron Seps*, 66 F.3d 1211, 1217, 36 USPQ 2d 1225, 1229 (Fed. Cir. 1995).

Accordingly, claims 9-11, 16-17, 20-21, 24-25 and 27 have not been amended in accordance with the suggestion set forth in paragraph 3, page 2 of the office action. Applicants respectfully submit that these claims are sufficiently definite and that this application be passed on to allowance.

The patent office is hereby authorized credit any overpayment or charge any deficiency in the fees filed, asserted to be filed or which should have been filed herewith to our Deposit Account No. 50-3629.

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Respectfully submitted,

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